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Bankruptcy vs. Foreclosure



Written by Avvo Staff

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While [declaring bankruptcy](#) and having your home foreclosed are both devastating to your credit rating, mortgage professionals say that when it comes to buying a home in the future, bankruptcy is the lesser of these two evils. That's because bankruptcy proceedings may often allow you to keep your home, while foreclosure of your home puts a black mark on your credit record. But the decision of which of these two undesirable options is best for you depends on many other factors in your credit history and your goals for the future.

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Weighing the options: bankruptcy vs. foreclosure

If you have managed to stay current on your mortgage payments but haven't been able to keep up with other debts, bankruptcy may make more sense, as you'll likely be allowed to keep your home. **If your main debt problem is your mortgage, you may be unable to avoid foreclosure but could possibly avoid declaring bankruptcy.** However, note that this depends on your home equity and income; not everyone is eligible for bankruptcy protection, even after foreclosure.

What bankruptcy and foreclosure may mean

A bankruptcy stays on your credit history for 10 years, and you may be compelled to sell some or all of your assets to pay creditors, depending on state law. You can only declare bankruptcy once every 7 years. **A foreclosure stays on your records for 7 years, but credit counselors report it has twice the negative impact on your credit score compared with a bankruptcy.** It will be extremely difficult to obtain a new mortgage for many years after you have lost a home to foreclosure.

What to do if you are faced with bankruptcy or foreclosure

If you are facing a financial crisis that may end in either [foreclosure](#) or [bankruptcy](#), consult an attorney to explore what your best option may be. The right decision may save you years of restricted credit in the future. **Don't give up before trying every avenue to avoid either bankruptcy or foreclosure:** your lender might grant you a few months' time to sell your house on your own, for instance, or banks might agree to a payment plan for your credit cards. If your home is worth more than what you owe on your mortgage, you might give the lender your deed in lieu of foreclosure. This means you will turn over the deed to the lender, who assumes ownership of the home. **Bankruptcy and foreclosure move forward in entirely different ways.** Bankruptcy sometimes involves filing a petition with

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a U.S. District Court, which will appoint a trustee to oversee your case. Other times, after you have received several notices, your home will be sold at auction.

Additional resources:

[U.S. Department of Justice Bankruptcy Information Sheet](#)

[U.S. Courts' Bankruptcy Basics](#)

[FreddieMac guide to avoiding foreclosure](#)

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